

Application No.: 09/745,386

Filing Date: December 21, 2000

crossed-over suture arrangement as claimed, b) the applicant has not disclosed that the crossing over on the sutures provides an advantage, is used for a particular purpose, or solves a stated problem, and c) one of skill in the art would expect the invention to perform equally well with the sutures not crossing each other.

Initially, it should be noted that the claims at issue specify a plurality of lengths of flexible material that cross over the outflow end of the valve to prevent suture looping. The lengths of flexible material could be sutures or other structures. For the purpose of argument only, however, these lengths of flexible material will be referred to as sutures herein.

With regard to the first contention, the most obvious arrangement of sutures is not to cross them over to avoid adding complexity in the design. Indeed, the assignee of the present invention also developed the Carpentier, et al. device and has been selling it as it is for many years without change. The present invention is an improvement over the Carpentier, et al. device, and required a significant amount of design work. To summarily conclude that the claimed arrangement is a matter of design choice is to ignore this significant effort, and also to ignore the amount of time that passed (more than ten years) between the Carpentier, et al. invention and the instant invention.

The statement that the present application does not identify that the crossed-over sutures solve any particular problem, etc., is clearly refuted by the specification. First, on page 2 of the present application, the Carpentier, et al. patent is described and problems of suture looping around one of the cloth-covered commissure posts is identified. The next sentence at the bottom of page 2 indicates that an improved design is needed that even better resists suture looping. Furthermore, from page 9, line 18, to page 10, line 15, the arrangement of the crossed-over sutures is provided, and at the end is characterized as providing a plane or slide (a "barrier of sorts") that helps prevent suture looping. Therefore, the present invention provides an advantage over the Carpentier, et al. design, was intended to be an improvement, and solves the problem by reducing the chance of suture looping.

Finally, the presumption that the present invention would work equally well without the claimed suture cross-over has no basis in any published source, nor for that matter in common

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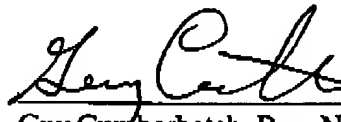
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knowledge. Indeed, applicants have studied this problem and designed the improvement as claimed herein specifically because it works better. It is logical that the chance of suture looping is reduced by providing more of a barrier at the commissure tips, specifically by crossing over the sutures to provide a plane or slide. Any bare allegation otherwise does not carry weight.

Based on the above remarks, Applicants asserts that claims 1-4 and 24-25 are allowable over Carpentier, et al. Furthermore, applicants request reinstatement of claims 5-7 and 26 as being dependent on an allowable generic base claim. Therefore, claims 1-7 and 24-26 are believed in condition for allowance. If there is a further hindrance to prompt allowance of the present application, the examiner is encouraged to contact undersigned by telephone.

Respectfully submitted,

Date:

August 29, 2002

Guy Cumberbatch, Reg. No. 36,114  
c/o Edwards Lifesciences LLC  
Law Department  
One Edwards Way  
Irvine, California 92614  
Telephone: (949) 250-6807  
Facsimile: (949) 250-6850

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the above-identified document is being transmitted via facsimile to Technology Group 3700, c/o the Commissioner for Patents, fax no. (703) 872-9303, Washington, D.C. 20231 on August 29, 2002.

By:

  
Guy Cumberbatch